UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE

ERNEST LANE TRIBBLE	)	
	)	
v.	)	NO. 2:12-CV-279
	)	
DR. WILLIAM R. KINCAID, *ET AL.*	)	

O R D E R

According to the complaint, plaintiff's decedent, Wanda Tribble, died as a result of breast cancer. The complaint alleges that her treating oncologist, Dr. William Kincaid, administered "watered down" chemotherapy drugs which either caused Mrs. Tribble's death, or at least failed to prolong her life.

The complaint recites that it later will be amended to add a claim for medical malpractice "as soon as the Tennessee statutory requirements are met." Therefore, since plaintiff himself says his complaint is not yet one for medical malpractice, it is not altogether clear how it should be characterized now. Fraud? Breach of contract? Whatever it is, plaintiff asks for Ten Million Dollars in compensatory damages and One Million Dollars in punitive damages.

Dr. Kincaid has filed a motion for Rule 11 sanction, (Doc. 6), in which he asserts that plaintiff's allegations in the complaint are "completely false and bogus . . . [and] . . . and have no evidentiary support." Dr. Kincaid asserts that this lawsuit is frivolous. The portion of his motion that is presently relevant is his request that he be allowed to file the medical records regarding Mrs. Tribble now in his possession, and to offer testimony about his treatment or lack thereof of Mrs. Tribble, notwithstanding the provisions of HIPPA; see, 45 C.F.R. 164.512(e)(1)(i).

Plaintiff shall respond to the defendant Kincaid's motion by Noon, Wednesday, August 1, 2012, regarding Dr. Kincaid's request as just stated.

SO ORDERED:

s/ Dennis H. Inman
United States Magistrate Judge